

Prepared by: Virginia Department of Environmental Quality
629 E. Main Street
Richmond, Virginia 23219
(804) 698-4000

Grantor: [Current Owner]
Grantee: [Current Owner]

DRAFT
COMMONWEALTH OF VIRGINIA
VOLUNTARY REMEDIATION PROGRAM
CERTIFICATION OF
SATISFACTORY COMPLETION OF REMEDIATION

Program Participant[s]: [Participant(s) name(s)]

Site Owner: [Current Owner]

Site Name: [Site name]

Site Location: [Site address]
(plat attached)

Voluntary Remediation Program
Site ID Number: [VRP ID Number]

Deed Book and Page Number of Deed Book No. _____
Site Owner's Title:

(or **Instrument Number** based on Deed Book Page _____
County requirements)

City/County of Record: [City or County that Site is located in]

Description of Property: ± ____ Acres

Current Zoning: _____

Proposed Use of Property: [For example: Residential,
Commercial, or Industrial]

Conditions of Issuance (if any): Institutional Controls - deed
restrictions incorporated in the
Declaration of Restrictive Covenants
that: [Insert institutional controls here,
for example: (1) groundwater beneath
the Site shall not be used for any

Conditions of Issuance (cont.):

purpose other than environmental monitoring and testing and; (2) the Site shall not be used for residential purposes or for children's (under the age of 16) daycare facilities, schools or playground purposes (although hotels and motels are not prohibited.)

[If applicable, insert: In addition, the participant or their successors shall conduct sampling as defined in the Post-certification Monitoring Plan dated [Insert date], on file at the Office of Remediation Programs at the Department of Environmental Quality (Department).]

Other Encumbrances on Site:

[List all deeds of trust and property rights affected by the use restrictions, such as rights to access, and utility easements. For example: 1) Deed of Trust made [Date], by and among _____ (grantor), _____ (Trustee), and _____ (Bank) (Deed Book ____, Page__).]

AUTHORITY

PURSUANT to Code of Virginia §§ 10.1-1230 *et seq.*, and the Voluntary Remediation Regulations (Virginia Administrative Code §§ 20-160-10 *et seq.* (VAC)), the Participant submitted an application on [Date], to enroll the Participant and the Site in the Voluntary Remediation Program (Program). By letter dated [Date], the Waste Management Board, acting through the Director of the Department of Environmental Quality (Director) deemed the Participant and Site eligible and notified the Participant that the Site was enrolled in the Program. The Program provides for the Participant's voluntary remediation of releases of hazardous substances, hazardous waste, solid waste, or petroleum from the Site that is the subject of this Certification of Satisfactory Completion of Remediation (Certificate), issued under 9-VAC-20-160-110.

DETERMINATION

Pursuant to the authority granted under Va. Code §§ 10.1-1230 *et seq.*, the Director, or his designee, has reviewed the Voluntary Remediation Report (Report), concurs with all work submitted, as set forth in 9 VAC 20-160-80, has determined that the environmental impacts identified at the Site do not present an unacceptable risk to human health and the environment [if the institutional controls mentioned above are implemented,] and hereby issues

this Certificate. No further action is required at the Site[, except for monitoring and the imposition of institutional controls as noted above].

As a result of the issuance of this Certificate, the Participant, current and future Site owners, and their successors-in-interest are afforded immunity from an enforcement action under the Virginia Waste Management Act (§§ 10.1-1400 *et seq.*), the State Water Control Law (§§ 62.1-44.2 *et seq.*), the Air Pollution Control Law (§§ 10.1-1300 *et seq.*), or other applicable Virginia law. The immunity accorded by the Certificate shall apply to the Participant, current and future owners of the Site and their successors-in-interest, and shall run with the land identified as the Site.

RESERVATION OF RIGHTS

The immunity granted by issuance of this Certificate shall be limited to Site conditions at the time of issuance as those conditions are described in the information submitted by the Participant pursuant to participation in the Program. The immunity is further conditioned upon satisfactory performance by the Participant of all obligations required by the Director under the Program and upon the veracity, accuracy, and completeness of the information submitted to the Director by the Participant relating to the Site.

The immunity provided for under this Certificate does not pertain to any matter other than that expressly specified in the section above entitled "Determination." The Director reserves, and this immunity is without prejudice to, the right to revoke or modify the Certificate (1) in the event conditions at the Site, unknown at the time of issuance of the Certificate, pose a risk to human health or the environment; or (2) in the event that the Certificate was based on information that was false, inaccurate, or misleading. The Director further reserves, and this Certificate and immunity is without prejudice to, the right to pursue any and all claims for liability for failure to meet a requirement of the Program, criminal liability, or liability arising from future activities at the Site which may cause contamination by pollutants. By issuance of this Certificate, the Director does not waive sovereign immunity.

This Certificate is not and shall not be interpreted to be a permit or a modification of an existing permit or administrative order issued pursuant to state law, nor shall it in any way relieve the Participant of its obligation to comply with any other federal or state law, regulation, or administrative order. Any new permit or administrative order, or modification of an existing permit or administrative order must be accomplished in accordance with applicable federal and/or state laws and regulations.

DISCUSSION OF RELEVANT INFORMATION

[Insert brief Site history including location, current and past owners if relevant.][Insert information on submittals and dates, including the Voluntary Remediation Report (Report). Also, include a summary of the information that

was considered, such as a description of the contaminants of concern and impacted media. If any restrictions on future use are to be placed on the Site, explain what they are and why, for example: "The risk assessment concluded that contamination in the soil and groundwater at the Site did not present an unacceptable risk to human health or the environment provided that the impacted groundwater at the Site is not used for drinking water purposes." Also specify any required institutional controls and any required engineering controls and their maintenance.]

In consideration of the ["above" or "implementation of the above-noted monitoring and institutional controls"], the Director has accepted the conclusions of the Report.

[If there are no institutional controls:]

Because this Certificate does not include any use restrictions, recordation is at the option of the Participant. If this Certificate is recorded in the land records of [Name of County or City], Virginia, a certified copy of the Certificate as recorded is requested to be submitted to the Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, ATTN: Voluntary Remediation Program, within 90 calendar days of its issuance.

[If the Certificate does contain institutional controls:]

This Certificate is conditioned upon its being signed by the Participant and owner, and recorded within 90 calendar days of its issuance, in the land records of [Name of County or City], Virginia. A certified copy of the Certificate as recorded must be submitted to the Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, ATTN: Voluntary Remediation Program.

**Robert G. Burnley, Director
Department of Environmental Quality**

Date: _____

BY: _____
Robert J. Weld, Office Director
Office of Remediation Programs

Date: _____ BY: _____
[Name of owner]

State of _____, County of _____

The foregoing instrument was acknowledged before me this [date] by
[name of person acknowledged].

[Notary]

[If the Owner and Participant are not the same:]

Date: _____ BY: _____
[Name of Participant]

State of _____, County of _____

The foregoing instrument was acknowledged before me this [date] by
[name of person acknowledged].

[Notary]

DECLARATION OF RESTRICTIVE COVENANTS

This Declaration of Restrictive Covenants made as of this ____ day of [month, year], under the authority of Virginia Code Section 10.1-1230 *et seq.* and 9 VAC 20-160-110 by [owner], owner of the fee simple title to the property hereinafter described, GRANTOR, and by [add names of trustees if any], Trustee, as follows:

ALL THAT certain tract, piece or parcel of land containing a total [amount of acres] acres, lying and being in the City of [name of city], Virginia, and [metes and bounds description of property and/or plat attached].

WHEREAS, [owner] is the fee simple owner of the said property (see deed recorded in Deed Book [Deed Book number], page [page number]; and

[If the property is subject to a Deed of Trust:]

WHEREAS, this property is subject to a Deed of Trust of record at Deed Book __, Page __, to _____ and _____, Trustees, to secure a note in the amount of _____ made to _____. The Trustee joins this Declaration to the end that the Deed of Trust shall be subordinate to this Declaration and its terms; and

WHEREAS, in consideration of certain concessions made by the Director of the Virginia Department of Environmental Quality, the Grantor has agreed to establish certain irrevocable restrictive covenants limiting the use of certain portions of said property in order to protect human health and the environment;

NOW THEREFORE, for the consideration referred to above, the receipt and legal sufficiency of which is hereby acknowledged by the undersigned, and in order to protect human health and the environment, the undersigned do hereby irrevocably, dedicate, declare and impose the following restrictive covenants to run with the land on the above described property as follows:

[Insert institutional controls here, for example:

1. The groundwater beneath the property shall not be used for any purpose other than environmental monitoring and testing.
2. The property shall not be used for residential purposes or for children's (under the age of 16) daycare facilities, schools or playground purposes (although hotels and motels are not prohibited).]

This Declaration of Restrictive Covenants may be modified or released only with the consent of the Director of the Department of Environmental Quality, upon a showing of changed circumstances sufficient to justify the change.

Given under my hand and seal at [name of city], Virginia, on the ____ day of [month, year],

[Name of Owner/Corporation]

By: [Name]

State of _____, County of _____

The foregoing instrument was acknowledged before me this [date] by [name of person acknowledged] .

[Notary]

[If the Owner and Participant are not the same]

[Name of Participant]

State of _____, County of _____

The foregoing instrument was acknowledged before me this [date] by [name of person acknowledged] .

[Notary]

[If there is a deed of trust]

[Name], Trustee

State of _____, County of _____

The foregoing instrument was acknowledged before me this [date] by [name of person acknowledged] .

[Notary]

[If there are other encumbrances listed on the Certificate]

[Name]

State of _____, County of _____

The foregoing instrument was acknowledged before me this [date] by [name of person acknowledged] .

[Notary]